

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PARTSRIVER, INC., No. C 09-00811 CW
Plaintiff, MINUTE ORDER AND
v. CASE MANAGEMENT
ORDER
SHOPZILLA, INC. et al.,
Defendants.

Clerk: Sheilah Cahill Reporter: Raynee Mercado
Plaintiff Attorney: Matthew Schechter; Jack Baldwin
Defendant Attorney: Theodore Chandler; Richard Cederoth; Richard Zembek; Christiana State; Jordan Trent Jones

A case management conference was held on: 7/16/09. The Case Management Statement and Proposed Order filed by the parties is hereby adopted by the Court as the Case Management Order for the case, except as may be noted below. The Court's standard Order for Pretrial Preparation also applies.

The case is hereby referred to the following ADR process:
Non-binding Arbitration: ☐ Early Neutral Evaluation: ☐
Court-connected mediation: ☐ Private mediation: ☐
Magistrate Judge settlement conference: ☒
ADR session to be held by: (09/15/09)
(or as soon thereafter as is convenient to the mediator's schedule)
Deadline to add additional parties or claims: (08/17/09)
Date of next case management conference: (11/12/09)
Completion of Fact Discovery: (01/08/10)
Disclosure of identities and reports of expert witnesses: (see below)
Completion of Expert Discovery: (see below)
Claim construction and dispositive motions
to be heard at 2:00 P.M. on or before: (11/12/09)
Final Pretrial Conference at 2:00 P.M. on: (11/16/10)
A 10 day Jury Trial will begin at 8:30 A.M. on: (11/29/10)

Additional Matters: Copy of Court's Order for Pretrial Preparation given to attys in court. **A Further Case Management Conference will be held on 11/12/09 at 2:00 p.m. whether or not dispositive motions are filed (or on whatever date dispositive motions are set).**

United States District Court
For the Northern District of California

1	Defendants to produce or make available	
2	opinion of counsel and related documents	
3	relied upon as defense to willful	
	infringement, etc. (Patent L.R. 3-7):	11/01/09
4	Plaintiff to file opening brief re: claim	
5	construction and any dispositive motion	
	(contained within a single brief):	09/14/09
6	Defendant to file opening brief	
7	re: claim construction and any dispositive	
	motion (contained within a single brief):	10/05/09
8	Plaintiff's reply/opposition to cross-motion	
	(contained within a single brief):	10/12/09
9	Defendant's surreply:	10/19/09
10	Hearing on claim construction and	
11	dispositive motions:	11/12/09
		@ 2:00 p.m.
12		
13	Disclosure of identities and reports of	
14	expert witnesses:	30 days after
15		Claim
		Construction
		Order
16	Rebuttal expert reports:	21 days after
17		opening reports
18	Completion of Expert Discovery:	30 days after
		rebuttal reports

IT IS SO ORDERED.

Dated: 7/21/09



CLAUDIA WILKEN
United States District Judge

Copies to: Chambers; Wings; ADR

NOTICE

Case Management Conferences and Pretrial Conferences are conducted on **Tuesdays** at 2:00 p.m. **Criminal Law and Motion** calendar is conducted on **Wednesdays** at 2:00 p.m. for defendants in custody and 2:30 p.m. for defendants not in custody. **Civil Law and Motion** calendar is conducted on **Thursdays** at 2:00 p.m. Order of call is determined by the Court. Counsel need not reserve a hearing date for civil motions; however, counsel are advised to check the legal newspapers or the Court's website at www.cand.uscourts.gov for unavailable dates.

Motions for Summary Judgment: All issues shall be contained within one motion of 25 pages or less, made on 35 days notice. (See Civil L.R. 7-2). Separate statements of undisputed facts in support of or in opposition to motions for summary judgment will not be considered by the Court. (See Civil Local Rule 56-2(a)). The motion and opposition should include a statement of facts supported by citations to the declarations filed with respect to the motion. Evidentiary and procedural objections shall be contained within the motion, opposition or reply; separate motions to strike will not be considered by the Court. Any cross-motion shall be contained within the opposition to any motion for summary judgment, shall contain 25 pages or less, and shall be filed 21 days before the hearing. The reply to a motion may contain up to 15 pages, shall include the opposition to any cross-motion, and shall be filed 14 days before the hearing. (See Civil Local Rule 7-3). The Court may, *sua sponte* or pursuant to a motion under Civil L.R. 6-3, reschedule the hearing so as to give a moving party time to file a reply to any cross-motion.

All discovery motions are referred to a Magistrate Judge to be heard and considered at the convenience of his/her calendar. All such matters shall be noticed by the moving party for hearing on the assigned Magistrate Judge's regular law and motion calendar, or pursuant to that Judge's procedures.

Pursuant to General Order 45, § VI.G, "In all cases subject to ECF, in addition to filing papers electronically, the parties are required to lodge for chambers **no later than noon on the business day following the day that the papers are filed electronically**, one paper copy of each document that is filed electronically."

(rev. 10/10/07)

ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 30 days prior to the pretrial conference, counsel shall exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7),(8),(9), and (10), and their motions in limine.

2. At least 20 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the pretrial conference; and

(c) Settlement of the action.

3. Not less than 10 days prior to the pretrial conference, counsel shall submit the following.

(a) Pretrial Conference Statement. The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed.

(2) The Factual Basis of the Action.

1 (A) Undisputed Facts. A plain and concise
2 statement of all relevant facts not reasonably disputed.

3 (B) Disputed Factual Issues. A plain and concise
4 statement of all disputed factual issues which remain to
5 be decided.

6 (C) Agreed Statement. A statement assessing
7 whether all or part of the action may be presented upon
8 an agreed statement of facts.

9 (D) Stipulations. A statement of stipulations
10 requested or proposed for pretrial or trial purposes.

11 (3) Disputed Legal Issues. Without extended legal
12 argument, a concise statement of each disputed point of
13 law concerning liability or relief.

14 (4) Further Discovery or Motions. A statement of
15 all remaining discovery or motions.

16 (5) Trial Alternatives and Options.

17 (A) Settlement Discussion. A statement summarizing
18 the status of settlement negotiations and indicating
19 whether further negotiations are likely to be productive.

20 (B) Consent to Trial Before a Magistrate Judge. A
21 statement whether the parties consent to a court or jury
22 trial before a magistrate judge, with appeal directly to
23 the Ninth Circuit.

24 (C) Bifurcation, Separate Trial of Issues. A
25 statement of whether bifurcation or a separate trial of
26 specific issues is feasible and desired.

27 (6) Miscellaneous. Any other subjects relevant to
28 the trial of the action, or material to its just, speedy
and inexpensive determination.

(b) Exhibit List and Objections. The exhibit list
shall list each proposed exhibit by its number (see Civil L.R.
30-2(b)), description, and sponsoring witness, followed by
blanks to accommodate the date on which it is marked for
identification and the date on which it is admitted into

1 evidence. **No party shall be permitted to offer any exhibit in**
2 **its case-in-chief that is not disclosed in its exhibit list**
3 **without leave of the Court for good cause shown.** Parties
4 shall also deliver a set of premarked exhibits to the
5 Courtroom Deputy. The exhibit markers shall each contain the
6 name and number of the case, the number of the exhibit, and
7 blanks to accommodate the date admitted and the Deputy Clerk's
8 initials. (Appropriate sample forms are available on the
9 Court's website at www.cand.uscourts.gov). Any objections to
10 exhibits which remain after the pretrial meeting shall be
11 indicated in the pretrial statement.

12 (c) Witness List. In addition to the requirements
13 of FRCP 26(a)(3)(A), a brief statement describing the
14 substance of the testimony to be given by each witness who may
15 be called at trial. **No party shall be permitted to call any**
16 **witness in its case-in-chief that is not disclosed in its**
17 **pretrial statement without leave of Court for good cause**
18 **shown.**

19 (d) Use of Discovery Responses. In addition to the
20 requirements of FRCP 26(a)(3)(B), a designation of any
21 excerpts from interrogatory answers or from responses for
22 admissions intended to be offered at trial. Counsel shall
23 indicate any objections to use of these materials and that
24 counsel have conferred respecting such objections.

25 (e) Trial briefs. Briefs on all significant
26 disputed issues of law, including foreseeable procedural and
27 evidentiary issues, which remain after the pretrial meeting.
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1 (f) Motions in Limine. Any motions in limine that
2 could not be settled at the pretrial meeting shall be filed
3 with the pretrial statement. All motions in limine shall be
4 contained within one document, limited to 25 pages pursuant to
5 Civil L.R. 7-2(b), with each motion listed as a subheading.
6 Opposition to the motions in limine shall be contained within
7 one document, limited to 25 pages, with corresponding
8 subheadings, and filed five (5) days thereafter.

9 (g) Joint Proposed Voir Dire. The attached voir
10 dire questionnaire will be given to the venire members, and
11 copies of the responses will be made available to counsel at
12 the beginning of voir dire. Counsel may submit a set of
13 additional requested voir dire, to be posed by the Court, to
14 which they have agreed at the pretrial meeting. Any voir dire
15 questions on which counsel cannot agree shall be submitted
16 separately. Counsel may be allowed brief follow-up voir dire
17 after the Court's questioning.

18 (h) Joint Proposed Jury Instructions. As
19 applicable, jury instructions §1.1A, §1.1C, §1.2 through
20 §1.17, §1.19, §2.1 through §2.13, §3.1 through §3.3 from the
21 Manual of Model Civil Jury Instructions for the Ninth Circuit
22 (2007 Edition) will be given absent objection. Counsel shall
23 jointly submit one set of additional proposed jury
24 instructions, to which they have agreed at the pretrial
25 meeting. The instructions shall be ordered in a logical
26 sequence, together with a table of contents. Any instruction
27 on which counsel cannot agree shall be marked as "disputed,"
28

1 and shall be included within the jointly submitted
2 instructions and accompanying table of contents, in the place
3 where the party proposing the instruction believes it should
4 be given. Argument and authority for and against each
5 disputed instruction shall be included as part of the joint
6 submission, on separate sheets directly following the disputed
7 instruction. Whenever possible, counsel shall deliver
8 to the Courtroom Deputy a copy of their joint proposed jury
9 instructions on a computer disk in WordPerfect or ASCII
10 format. The disk label should include the name of the
11 parties, the case number and a description of the document.

12 (i) Proposed Verdict Forms, Joint or Separate.

13 (j) Proposed Findings of Fact and Conclusions of
14 Law (Court Trial only). Whenever possible, counsel shall
15 deliver to the Courtroom Deputy a copy of their proposed
16 findings of fact and conclusions of law on a computer disk in
17 WordPerfect or ASCII format. The disk label should include the
18 name of the parties, the case number and a description of the
19 document.

20 JURY SELECTION

21 The Jury Commissioner will summon 20 to 25 prospective
22 jurors. The Courtroom Deputy will select their names at
23 random and seat them in the courtroom in the order in which
24 their names are called.

25 Voir dire will be asked of sufficient venire persons so
26 that eight (or more for a lengthy trial) will remain after all
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1 peremptory challenges and an anticipated number of hardship
2 dismissals and cause challenges have been made.

3 The Court will then take cause challenges, and discuss
4 hardship claims from the individual jurors, outside the
5 presence of the venire. The Court will inform the attorneys
6 which hardship claims and cause challenges will be granted,
7 but will not announce those dismissals until the process is
8 completed. Each side may then list in writing up to three
9 peremptory challenges. The attorneys will review each other's
10 lists and then submit them to the Courtroom Deputy.

11 Then, from the list of jurors in numerical order, the
12 Court will strike the persons with meritorious hardships,
13 those excused for cause, and those challenged peremptorily,
14 and call the first eight people in numerical sequence
15 remaining. Those people will be the jury.

16 All jurors remaining at the close of the case will
17 deliberate. There are no alternates.

18 SANCTIONS

19 Failure to comply with this Order is cause for sanctions
20 under Federal Rule of Civil Procedure 16(f).

21 IT IS SO ORDERED.

22
23
24 Dated: _____



25 CLAUDIA WILKEN
26 UNITED STATES DISTRICT JUDGE
27
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JUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom of the page. Thank you for your cooperation.

1. Your name:

2. Your age:

3. The city where you live:

How long have you lived there: _____

4. Your place of birth:

5. Do you rent or own your own home?

6. Your marital status: (circle one)

single married live with partner separated divorced
widowed

7. What is your occupation, and how long have you worked in it? (If you are retired, please describe your main occupation when you were working).

8. Who is (or was) your employer?

9. How long have you worked for this employer? _____

10. Please list the occupations of any adults with whom you live.

11. If you have children, please list their ages and sex and, if they are employed, please give their occupations.

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12. Please describe your educational background:

Highest grade completed: _____

College and/or vocational schools you have attended: _____

Major areas of study: _____

13. Have you ever served on a jury before? _____ How many times? _____

If yes: State/County Court _____ Federal Court _____

When? _____

Was it a civil or criminal case? _____

Did the jury(ies) reach a verdict? _____

14. Attached is a list of the parties in this case, the law firms representing the parties, attorneys in this case, and persons who are potential witnesses in this case. Do you know, or think you know, any of the persons listed?

Yes: _____

No: _____

If so, make a check next to their name.

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